



National Aeronautics and
Space Administration
Washington, DC 20546

Procurement Notice

PN 04-66
August 29, 2011

PROCEDURES FOR REQUESTING WAGE DETERMINATIONS

BACKGROUND: FAC 2005-10 revised the process for obtaining wage determinations (WD) to reflect the Department of Labor (DOL) new online system for acquisitions covered by the Service Contract Act (SCA) or the Davis Bacon Act (DBA). Contracting Officers (CO) should utilize this online system to download the WD and when the WD is unavailable online submit an electronic form e98 to request SCA wage determination(s) from the DOL. The electronic e98 process is also used to create a wage determination that is based on a collective bargaining agreement applicable to a particular acquisition. The DOL online system provides the most current wage determination and if requested, will provide the CO with updates should changes occur prior to the contract award or option exercise effective date if the CO signs up to receive notification of updates via an email notification service on the www.wdol.gov website. The online system can also be used for DBA wage determinations. If the online DBA system does not contain the required information, the paper SF-308 should be submitted through the Center's Contractor Industrial Relations Officer to the Department of Labor.

Accordingly, the NFS 1822 is updated to be consistent with FAR 22. Also, the NFS is updated to include a link for NASA's Industrial Labor Relations Guide that has recently been developed. Accordingly this PN revises the NFS to make the following changes -

1. Add a link to NASA's Industrial Labor Relations Guide in NFS 1822.000-70;
2. Update the coverage in NFS 1822.404-3;
3. Revise the title of NFS 1822.1008 from: "Procedures for preparing and submitting Notice (SF 98/98a)" to: "Procedures for obtaining wage determinations" to be consistent with FAR 22.1008;
4. Delete NFS 1822.1008-270 and 1822.1008-7 since section FAR 22.1008-7 has been removed from the FAR;
5. Revise the title of NFS 1822.13 from "Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans" to "Equal Opportunity for Veterans" to be consistent with FAR Subpart 22.13.
6. Revise NFS 1822 to update references to obsolete or changed office codes at NASA Headquarters for the Office of Procurement, Contractor Industrial Relations Office, and the office code and title of the Associate Administrator for Diversity and Equal Opportunity.

7. Revise NFS 1822 to update references from the “Installation Labor Relations Advisor” to the “Center’s Contractor Industrial Relations Officer”.

The NFS coverage affected is not in the CFR so there is no need to coordinate this revision with OIRA or publish a rule.

ACQUISITIONS AFFECTED BY CHANGES: None.

ACTIONS REQUIRED BY CONTRACTING OFFICERS: Obtain SCA and DBA wage determinations from the DOL online system. The preferred method for obtaining SCA wage determination(s) is by downloading from www.wdol.gov and when unavailable there, through the submission of the electronic form (e98). DBA wage determinations can be obtained through the online system or in situations where the information is not available, through the paper SF-308 process. Obtain guidance and assistance from the Center’s resident Contractor Industrial Relations Officer when needed in completing the electronic e98 or when determining the appropriate wage determination for specific acquisitions when issuing solicitations, awarding contracts, or issuing contract modifications or exercising options that require the updating of the wage determinations(s). CO’s are reminded to be aware of the requirements of FAR 22.1015 and the importance of selecting the appropriate WD for specific acquisitions-- otherwise more contract administration via contract modification(s) will be required to correct errors.

CLAUSE CHANGES: None.

PARTS AFFECTED: Part 1822.

REPLACEMENT PAGES: You may use the enclosed pages to replace Part 1822 of the NFS.

TYPE OF RULE AND PUBLICATION DATE: These changes do not have a significant effect beyond the internal operating procedures of NASA and do not have a significant cost or administrative impact on contractors or offerors, and therefore do not require codification in the Code of Federal Regulations (CFR) or publication for public comment.

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Enclosures

DISTRIBUTION:
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**PART 1822
APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS**

1822.000-70 Scope of part.

(a) Contracting officers shall consult with the Center's Contractor Industrial Relations Officer or designee when taking any of the actions prescribed or authorized in FAR Part 22 or NFS Part 1822.

(b) Proposed actions having a substantial impact on the activities of NASA or other Government agencies shall be approved by the Headquarters Contractor Industrial Relations Office (Code LD040).

(c) The NASA Industrial Labor Relations Guide provides agency-wide guidance to individuals involved in the acquisition of supplies or services (including construction) applicable to labor laws and is available at: http://prod.nais.nasa.gov/portals/pl/pre_sol_planning.html.

Subpart 1822.1--Basic Labor Policies

1822.101 Labor relations.

1822.101-1 General.

(d) When a strike that may have an adverse effect on NASA programs is imminent or in progress at a prime contractor's or subcontractor's plant, contracting officers shall, in coordination with the Center Contractor Industrial Relations Officer:

(i) Advise both the prime contractor and the head of the union local in writing of the expected impact of the strike on NASA programs and of the actions NASA is considering to protect the Government's interest and prevent delay in the accomplishment of NASA's mission. If the strike is in a subcontractor's plant, the subcontractor may be approached only through the prime contractor;

(ii) Explore the possibility of locating other sources for the supplies or services to have been provided by the strike-threatened plant; and

(iii) Consider taking the actions described in FAR 22.101-4.

1822.101-3 Reporting labor disputes.

Reports of potential or actual labor disputes affecting NASA acquisitions, operations, or services shall be submitted to the Headquarters Contractor Industrial Relations Office (Code LD040). These reports shall be made as early as possible and shall include immediately available information. Supplemental reports shall be made to provide appropriate additional information. Reports shall describe at a minimum:

(1) The nature of the potential or actual dispute, including whether a strike, lockout, slow-down, shut-down, or picketing is involved and the degree of emergency presented;

(2) The character, quantity, and importance of the supplies, operations, or services involved, including scheduled performance and delivery dates and their relationship to the total acquisition program;

(3) The identity and location of the parties to the dispute and their representatives, including the approximate number of employees involved;

(4) The need for and availability of alternative resources to furnish the items involved within the time required;

(5) Any critical items that should be removed from the plant or work site or should continue to be processed there with the consent of the parties to the dispute; and

(6) Recommended action to be taken by NASA.

1822.101-4 Removal of items from contractors' facilities affected by work stoppages.

(a)(3) The contracting officer shall obtain approval from Code LD040 for any contemplated action.

1822.101-70 Admission of labor representatives to contract sites.

NASA activities may not prevent the access of labor union representatives to contract sites for the conduct of union business if their activities are compatible with safety and security regulations and performance of the contract work involved.

1822.103 Overtime.

1822.103-4 Approvals.

(a) The contracting officer is authorized to approve overtime premiums at Government expense. If two or more contracting offices have current contracts at a single facility and approval of overtime by one will affect the performance or cost of contracts of another, the approving official shall obtain the concurrence of other appropriate approving officials and seek agreement as to the contracts under which premiums will be approved. In the absence of evidence to the contrary, a contracting officer may rely on the contractor's statement that approval will not affect performance or payments under any contract of another contracting office.

1822.103-5 Contract clause.

(a) Insert the clause at 52.222-1, Notice to the Government of Labor Disputes, in all solicitations and contracts that exceed the simplified acquisition threshold.

Subpart 1822.3--Contract Work Hours and Safety Standards Act

1822.302 Liquidated damages and overtime pay.

(c) The Director of the Headquarters Contractor Industrial Relations Office (Code LD040) is the agency head designee.

(d) Disposal of funds withheld or collected for liquidated damages shall be in accordance with direction of the Director of Code LD040.

Subpart 1822.4--Labor Standards for Contracts Involving Construction

1822.400-70 Contacts with the Department of Labor.

All contacts with the Department of Labor required by FAR Subpart 22.4, except for wage determinations, shall be conducted through the Center's Contractor Industrial Relations Office.

The Center's Contractor Industrial Relations Officer will coordinate the information and requirements with the Headquarters Contractor Industrial Relations Office (Code LD040).

1822.404-3 Procedures for requesting wage determinations.

(a) Contracting officers shall follow the detailed procedure in FAR 22.404-3 and submit a request for review of project Davis-Bacon Act wage determinations and wage determinations unavailable at www.wdol.gov at least 45 days before issuing a solicitation.

(b) Contracting officers shall ensure Davis-Bacon Act wage determinations are updated periodically consistent with FAR 22.1007.

1822.406-8 Investigations.

(a) The contracting officer is responsible for conducting investigations of labor violations relative to contracts under their cognizance in coordination with the Center's Contractor Industrial Relations Officer.

(d) Reports of substantial violations or refusals to pay shall be sent to Code LD040.

1822.406-9 Withholding from or suspension of contract payments.

(c)(4) Code LD040 shall determine the disposal of funds.

1822.406-13 Semiannual enforcement reports.

Procurement officers shall submit semiannual enforcement data within 20 days after the end of the specified reporting periods to the Headquarters Office of Procurement, Contract Management Division. Negative statements are required.

Subpart 1822.6--Walsh-Healey Public Contracts Act

1822.604 Exemptions.

1822.604-2 Regulatory exemptions.

(b) Requests for exemptions shall be submitted in writing through the contracting officer to the Headquarters Contractor Industrial Relations Office (Code LD040).

Subpart 1822.8--Equal Employment Opportunity

1822.804 Affirmative action programs.

1822.804-2 Construction.

(b) The Headquarters Office of Procurement, Contract Management Division will furnish each procurement officer the listing.

1822.807 Exemptions.

Requests for exemption pursuant to FAR 22.807(a)(1), (a)(2), or (b)(5) shall be sent to the Headquarters Office of Procurement, Program Operations Division.

1822.810 Solicitation provisions and contract clauses.

(e) If an offeror completes a negative representation under FAR 52.222-22, the contracting officer shall obtain the information required by FAR 52.222-26(b)(7) within 30 days of contract award. This information shall be held in confidence as privileged information in accordance with 32 CFR 286.6(b)(4).

Subpart 1822.10--Service Contract Act of 1965

1822.1001 Definitions.

"Agency labor advisor" is the Director of the Headquarters Contractor Industrial Relations Office (Code LD040). All contacts with the Department of Labor required by FAR 22.10, except for wage determinations, shall be conducted through the Center's Contractor Industrial Relations Officer who will coordinate the information and requirements with the Headquarters Contractor Industrial Relations Officer, Code LD040 prior to contacting the Department of Labor.

1822.1008 Procedures for obtaining wage determinations.

Contracting Officers shall download WDs from www.wdol.gov. When unavailable at that site, contracting officers shall complete the online electronic (e98) form requesting the WD from the Department of Labor prior to release of all solicitations and the exercise of contract options and/or anniversary dates in accordance with the FAR. Contracting Officers shall contact their Center's Contractor Industrial Relations Officer if assistance is needed in completing the electronic e98 or in determining which particular online wage determination is applicable to a specific acquisition.

Subpart 1822.13--Equal Opportunity for Veterans**1822.1305 Waivers.**

(c) Requests for waivers shall be submitted to the Associate Administrator for Diversity and Equal Opportunity Office (Code YA00).

1822.1308 Complaint procedures.

Contracting officers shall submit all complaints to the Associate Administrator for Diversity and Equal Opportunity Office (Code YA00).

Subpart 1822.14--Employment of Workers with Disabilities**1822.1403 Waivers.**

(c) Requests for waivers shall be submitted to the Associate Administrator for Diversity and Equal Opportunity Office (Code YA00).

1822.1406 Complaint procedures.

Contracting officers shall submit all complaints to the Associate Administrator for Diversity and Equal Opportunity Office (Code YA00).

Subpart 1822.15--Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor**1822.1503 Procedures for acquiring end products on the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor.**

(e) All investigations under FAR Subpart 22.15 shall be referred to NASA's Office of Inspector General.